

1 **UNITED STATES DISTRICT COURT**
2 **DISTRICT OF NEVADA**

3 PERRRY T. HILL,

Case No.: 3:17-cv-00501-MMD-WGC

4 Plaintiff

Order

5 v.

Re: ECF Nos. 28

6 DR. MICHAEL KOEHN, et. al.,

7 Defendants
8

9 Plaintiff was an inmate in the custody of the Nevada Department of Corrections (NDOC)
10 when he filed this action. He was subsequently paroled.

11 Defendants filed their motion for summary judgment (ECF Nos. 28, 30, 30-1 to 30-9) on
12 May 3, 2019. Plaintiff failed to timely file a response to the motion. On July 8, 2019, the court
13 gave Plaintiff an additional 20 days to file a response. (ECF No. 33.) Plaintiff did not do so. On
14 September 23, 2019, the court gave Plaintiff until October 13, 2019, to file a response to the
15 motion. (ECF No. 34.) Plaintiff did not do so.

16 The last contact the court has had from Plaintiff was a notice of change of address filed on
17 December 20, 2018. (ECF No. 17.) The court has not received any other indication that Plaintiff
18 intends to proceed with prosecution of this action.

19 The court has the power to sua sponte dismiss an action for the failure to prosecute. *See*
20 Fed. R. Civ. P. 41(b); *Ash v. Cvetkov*, 739 F.2d 493, 496 (9th Cir. 1984); *Pearson v. Dennison*,
21 353 F.2d 24, 28 (9th Cir. 1965) (citation omitted).

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1 **CONCLUSION**

2 Defendants' pending motion for summary judgment (ECF No. 28) is **DENIED**
3 **WITHOUT PREJUDICE.**

4 Plaintiff has **FOURTEEN (14) DAYS** from the date of this Order to file and serve a notice
5 of intent to prosecute this action along with a response to Defendants' motion for summary
6 judgment. A failure to do so will result in a recommendation that this action be dismissed with
7 prejudice for failure to prosecute under Federal Rule of Civil Procedure 41(b).

8 The Clerk shall **SEND** a copy of this order to Plaintiff at the last address of record:

9 2128 Bennett Street, North Las Vegas, NV 89030

10 **IT IS SO ORDERED.**

11 Dated: October 18, 2019.

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13 William G. Cobb
14 United States Magistrate Judge
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